Remarks:

Claims 1-13 remain in this application. Claims 14-16 and have been canceled. Claims 5 and 12 have been amended.

Claims 3-4 have been indicated as being allowable by Examiner if rewritten in independent form. Applicant will amend these claims if necessary after prosecution on the merits is closed.

Claims 1-2, 6-9, and 12-13 are rejected under 34 U.S.C. 102(b) as being anticipated by Torrie. Torrie discloses a soft tissue anchor having a head symmetrically positioned on a distally extending shaft. Torrie fails to disclose "the transverse head extending in a first direction to a first point situated a first predetermined distance outwardly from the axis and extending in a second direction, generally opposed to the first direction, to a second point situated a second predetermined distance outwardly from the axis, **the second predetermined distance being less than the first predetermined distance**, . . . a first projection extending a third predetermined distance distally from the first point, a second projection extending a fourth predetermined distance distally from the second point". Torrie's head is centered on the shaft such that the first and second points referred to by Examiner from which the projections (14) extend are equidistant from the shaft axis. Since Torrie fails to disclose the first and second points being different distances from the shaft axis, claim 1 does not read on Torrie and is therefore allowable over Torrie.

Claim 2 depends from claim 1 and is allowable over Torrie for the same reasons as claim 1.

Claims 6-9 depend from claim 1 and are allowable over Torrie for the same reasons as claim 1.

Regarding amended claim 12, Torrie fails to disclose "means for expanding a portion of the labral tissue adjacent the glenoid fossa to create a raised tissue buttress adjacent the glenoid

fossa, the tissue engaging means comprising a transverse head extending radially away from the shaft axis beyond the shaft all the way around the shaft, the transverse head being positioned asymmetrically on the shaft such that the transverse head extends further on one side of the shaft than on another side of the shaft". Torrie discloses a symmetrically positioned head. Therefore, claim 12 does not read on Torrie and is allowable over Torrie.

Claim 13 depends from claim 12 and is therefore allowable for the same reasons as claim 12. Claim 13 is further allowable over Torrie because Torrie fails to disclose "a projection extending distally a predetermined distance from the second point and terminating at an edge, the edge pressing into the labral tissue to force it to bulge out and raise a tissue buttress". Torrie teaches barbs (14) that taper to a point and not an edge. Furthermore, the barbs "are sized to approximate the thickness of the soft tissue to allow such firm embedment in the tissue as is needed without inducing necrosis of the soft tissue" [6:55-60]. As this statement indicates, Torrie actually teaches away from Applicant's "edge pressing into the labral tissue to force it to bulge out and raise a tissue buttress". Torrie's pointed barbs are specifically designed to penetrate the tissue and not to press it in a bulge inducing way. Figure 6 of Torrie shows the sharpened barbs penetrating into the tissue while it remains flat underneath the head of the anchor.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torrie in view of Dudasik. Examiner relies on Torrie as teaching all elements of the claimed invention except for an arcuate bottom surface and varying barb width. Examiner cites Dudasik as providing an arcuate bottom surface and varying barb width. Applicant respectfully disagrees. As pointed out above, Torrie fails to disclose the head extending different distances on opposite sides of the shaft. Furthermore, even if Torrie disclosed all of the elements of claim 1, from which claims 5 and 10 depend, Dudasik fails to disclose the additional elements of claims 5 and

10. With regard to claim 5, the combination further fails to disclose "wherein the transverse bottom surface is concavely arcuate between the first and second points". Figure 8 of Dudasik discloses a flat bottom surface (note the horizontal line denoting the bottom surface of the flange) with teeth (129) projecting from this flat surface. Where Dudasik does disclose and discuss a curved distal surface [5:4-10, Figures 15 and 16], it is described as a convex surface which is antithetical to Applicant's concave arcuate surface.

With regard to claim 10, the combination further fails to disclose "the barbs arranged in a plurality of linear, longitudinally extending rows, each row containing a plurality of longitudinally spaced barbs, each barb subtending a predetermined arcuate distance, the arcuate distance subtended by a barb in a row being greater than that subtended by the immediately distally adjacent barb in that row". First, both Torrie and Dudasik disclose annular ring-like barbs. They fail to disclose longitudinal rows of barbs. They fail to disclose discrete barbs subtending an arcuate distance (or width). And finally they fail to disclose the subtended distance (or width) of adjacent barbs decreasing distally. Therefore, since the combination fails to disclose discrete barbs with a width and the width of adjacent barbs decreasing distally, claim10 does not read on the combination and is allowable over the combination.

It is further noted that both Torrie and Dudasik's ring-like barbs increase in depth distally and thus more bone is disturbed by the distal barbs such that insertion of those devices with the barbs deployed would result in no bone being gripped by the more proximal barbs. While this depth relationship is not related to Applicant's claimed width relationship, it does teach away from the general principles relating to how Applicant's claimed device operates. Applicant's claimed device has barbs that disturb less bone distally such that upon insertion all of the barbs grip bone,

the distal barbs being narrower to leave undisturbed bone for the more proximal barbs to grip. Thus, individually and combined, the cited references are inappropriately applied in this instance.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zang et al. in view of Dudasik. The combination fails to disclose "each barb having a width, the width of a barb in a row being greater than that of the immediately distally adjacent barb in that row". Both Zang and Dudasik disclose barbs of uniform width; Zang's being in rows and Dudasik's being annular rings. Neither of the references discloses barbs in which the width of adjacent barbs decreases distally. Therefore, claim 11 does not read on the combination and is allowable over the combination. As pointed out relative to claim 10, Dudasik's arrangement teaches away from Applicants claimed invention.

Applicant believes that the claims remaining in this case are in condition for allowance and respectfully requests that a timely Notice of Allowance be issued in this case. Examiner is encouraged to contact Applicant by telephone with any questions about the content of this amendment or to discuss allowable subject matter to facilitate placing this case in condition for allowance.

Respectfully submitted,

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